IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6950 of 1993 with
SPECIAL CIVIL APPLICATION NO 5037 OF 1993

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RASIKBHAI B RATHOD

Versus

MANAGER

Appearance:

MR MS MANSURI for THE WORKMAN.

MR KS NANAVATI for the Employer.

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 18/09/2003

ORAL JUDGEMENT

Heard learned advocate Mr. Mansuri for the workman and Mr. Kunal Nanavati for Mr. K.S. Nanavati for

the employer. In these two petitions, common award made by the labour court Baroda in Reference No. 77 of 1984 dated 21.1.1993 has been challenged by both the parties. Under the impugned award, the labour court has granted reinstatement with continuity of service, with sixty per cent of the back wages for the intervening period.

This Court, while admitting special civil application no. 5037 of 1993, passed the following order on July 20, 1993 :

"Rule. Mr. M.S. Mansuri waives service of rule on behalf of the respondent.

To be heard with Spl. CA No. 6950 of 1993.

Heard the learned Advocates appearing for the parties as regards interim relief. In the facts of the present case, there shall be no any stay against the direction as regards reinstatement. As far as payment of 60 % (sixty per cent) of the back wages is concerned, it is directed that the entire amount of back wages awarded by the labour court shall be deposited in this court on or before August 30, 1993. As and when the amount is deposited with the office of the High Court, 50 per cent (fifty per cent) of the deposited amount will be permitted to be withdrawn by the respondent workman on his furnishing undertaking to the effect that in case he loses in the petition and is directed to restore the amount to the petitioner, he shall restore the same as per the direction of the court which may be given at the time of final decision. Balance 50 % (fifty per cent) of the amount shall be invested by the office of the High Court in a Nationalized Bank initially for a period of thirty seven months At the end of the thirty seven months, if the petition remains pending, the FDR shall be renewed by the office automatically without waiting for the orders from the court, for a further period of one year."

Thus, in view of the aforesaid order passed by this court while admitting the said petition, there was no stay operating against the reinstatement of the workman was concerned. As far as the payment of 60 per cent of the back wages is concerned, employer was directed by this court as per the aforesaid order to deposit entire amount of back wages as awarded by the labour court before this court on or before 30th August,

1993 and fifty per cent of the amount deposited by the employer before this court was permitted to be withdrawn by the workman on his furnishing undertaking to the effect that in case he loses in the matter and is directed to restore the amount, he shall restore the same as per the directions of this court or any other directions that may be issued by this court while disposing the matter off finally. By the said order, it was also directed by this court that after the withdrawal of the 50 per cent of the amount deposited by the employer before this court, the remaining amount of back wages shall be invested by the office of this court in any Nationalized Bank initially for a period of 37 months and the said FDR was ordered to be renewed thereafter automatically without waiting for the orders of the court.

During the course of hearing, learned advocate Mr. Mansuri appearing for the workman has submitted that in view of the orders passed by this court while admitting the matter, the workman has already been reinstated by the employer. He also made a statement before this court that 50 per cent of the amount of back wages deposited by the employer before this court has also been withdrawn by the workman after furnishing the undertaking in terms of the directions issued by this court and the remaining 50 per cent of the amount of back wages deposited by the employer before this court is lying before this court in the form of Fixed Deposit Receipt as directed by this court. Now, both the learned advocates are agreeing that the award made by the labour court may be confirmed in terms of the interim order passed by this court while admitting the matter on 20th July, 1993 meaning thereby, both the petitions may be disposed off and the rule may be made absolute in terms of the order dated 20th July, 1993. Learned advocate Mr. Kunal Nanavaty for the employer has also made further statement before this court that the remaining amount of back wages lying before this court in the form of FDR may be paid to the workman with all interest accrued thereon from time to time, till this date, and for that he is not having any objection and the matters may be disposed of in terms of the interim order passed by this court on 20th July, 1993.

I have considered the submissions of both the learned advocates for the parties. Both the learned advocates are agreeing to confirm the award in question.

In view of the submissions made by the learned advocates for the parties, the award in question made by

the labour court in Reference No. 77 of 1984 dated 21.1.1993 is hereby confirmed in terms of the interim order dated 20th July, 1993 passed by this court in Special Civil Application No. 5037 of 1993 while admitting the said petition. Rule is made absolute accordingly in terms indicated hereinabove. Office is directed to pay the remaining amount of 50 per cent back wages deposited by the employer in view of this court's order dated 20th July, 1993 in SCA No. 5037 of 1993 to the workman namely Rasikbhai B. Rathod with interest accrued thereon from time to time till this date by Account Payee Cheque drawn in the name of the said workman as identified by his advocate Mr. Mansuri, within ten days from the date of receipt of copy of this order. There shall be no order as to costs.

Dt.18.9.2003. (H.K. Rathod,J.)
Vyas